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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/620,818 | 07/16/2003 | Richard M. Ehrlich | PANA-01046USG | 1232 |
| 7590 | 10/18/2005 | | EXAMINER | |
| SHELDON R. MEYER, ESQ. FLIESLER MEYER LLP FOUR EMBARCADERO CENTER FOURTH FLOOR SAN FRANCISCO, CA 94111-4156 | | | SNIEZEK, ANDREW L | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 2651 | |
| DATE MAILED: 10/18/2005 | | | | |

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/620,818 | EHRLICH, RICHARD M. | |
| | Examiner | Art Unit | |
| | Andrew L. Sniezek | 2651 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 19 September 2005.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) 16-22 is/are allowed.
- 6) Claim(s) 1,8,10 and 15 is/are rejected.
- 7) Claim(s) 2-7,9 and 11-14 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 4/25/05, 9/19/05, 7/12/05
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. attached.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____.

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statements filed, 4/25/05, 9/19/05 and 7/12/05 have been considered. Applicant was called on 10/7/05 to verify which application the IDS of 4/25/05 belongs since the serial number on the PTO-1449 does not correspond to the Attorney docket number on the form. Examiner corrected the serial number in the form so that it corresponds to the present application 10/620,818.

2. The terminal disclaimer filed 4/25/05 has been accepted and entered in the filed.

Double Patenting

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4. Claims 1, 10, 15 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 21-23, 25 of copending Application No. 10/621,048. Although the conflicting claims are not identical, they are not patentably distinct from each other because each is directed to the use of

plural, two, servo demodulators operating at different parameters. Note that the specification indicates that one type or parameter is a nominal frequency.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

5. Claims 1, 10, 15 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 21-23 of copending Application No. 10/620,661. Although the conflicting claims are not identical, they are not patentably distinct from each other because each is directed to the use of plural, two, servo demodulators operating at different parameters. Note that the specification indicates that one type or parameter is a nominal frequency. Also, the although the copending application is written using method language, such a difference would have been obvious to one of ordinary skill in the art since the body of the related claims are similar.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1, 8 and 10 are rejected under 35 U.S.C. 102(e) as being anticipated by Aziz.

Re claims 1 and 8: Aziz teaches an arrangement that uses a first and second detector arrangement (603a and 603b) as depicted in figure 6 that have different parameters due to element (508) which satisfies the claimed first and second demodulators having different parameters.

Re claim 10: note operation of element (601) where at least one of the detected SAMS is used for control.

Allowable Subject Matter

8. Claims 2-7, 9, 11-14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

9. Claims 16-22 are allowed.

10. The following is a statement of reasons for the indication of allowable subject matter: The claimed servo demodulation system as set forth in claim 16 that additionally uses a third set of servo demodulation detection parameters in the manner as claimed is neither taught by nor an obvious variation of the art of record.

11. The claimed servo demodulation system as set forth in claim 1 that additionally contains each of the specific parameters as set forth in claims 2-7 and 9 in a manner as set forth is neither taught by nor an obvious variation of the art of record. The claimed arrangement of claim 11/1 that uses two servo demodulators having different

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parameters and includes a microprocessor to characterize the patterns as set forth is neither taught by nor an obvious variation of the art of record.

Response to Arguments

12. Applicant's arguments with respect to claims present have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew L. Snizek whose telephone number is 571-272-7563. The examiner can normally be reached on Mon.-Fri..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Hudspeth can be reached on 571-272-7843. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

andrew l. snizek
Andrew L. Snizek
Primary Examiner
Art Unit 2651

A.L.S.
10/7/05